

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN DONALD L. HEDGES**, on February 1, 2001
at 3:15 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Donald L. Hedges, Chairman (R)
Rep. Linda Holden, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Norma Bixby (D)
Rep. Gilda Clancy (R)
Rep. Rick Dale (R)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Verdell Jackson (R)
Rep. Larry Lehman (R)
Rep. Holly Raser (D)
Rep. Clarice Schrupf (R)
Rep. Butch Waddill (R)
Rep. Merlin Wolery (R)

Members Excused: Rep. Christopher Harris (D)
Rep. Jim Keane (D)
Rep. Frank Smith (D)
Rep. Karl Waitschies (R)

Members Absent: None.

Staff Present: Krista Lee Evans, Legislative Branch
Robyn Lund, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: HB 356
HB 335
HB 368

EXECUTIVE ACTION ON HB 346

Motion/Vote: REP. ADAMS moved that HB 346 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 335

Motion: REP. GALVIN-HALCRO moved that HB 335 DO PASS.

Discussion:

Krista Lee Evans passed out, to the committee, a copy of the General Permit Fact Sheet for CAFOs. **EXHIBIT (agh26a01)**

REPRESENTATIVE VERDELL JACKSON stated that he had concern that he didn't see that the hearing did anything of a legal nature. It did give people the opportunity to express concerns, but it didn't fit into a legal nature. John Bloomquist said that if we wanted to have any say over where a CAFO is placed that a siting act was the appropriate place rather than in the general permit. He stated that covenants and zoning would be a vehicle to prevent these. Because of those reasons he can't support the bill.

REPRESENTATIVE LINDA HOLDEN said that she had spoken with Bonnie Loveless and Doug Hinneman and learned that this may pertain to people who all ready have a permit because every five years because it is reviewed. The Pondera County Colony that there was testimony about happened because the permitting at that time wasn't as well written as it is now. The form has been tightened up. Ms. Loveless had told her that crrently it is quite stringent when you apply. They had discussed that it would be very costly for public hearings, and that some one not locally could request a hearing; **REP. HOLDEN** has fear that it could cause a feeding frenzy. She suggested that the notification be posted in the newspaper and people could right in so that the DEQ could hear the objections. Public hearings might cause more problems.

REPRESENTATIVE DARREL ADAMS said that he could never support this bill. It is a mischief bill. It doesn't seem to be very good policy.

REPRESENTATIVE DAVE GALLIK thought that this is a great bill. He knows that there are some concerns that he wanted to address. If there is a CAFO that goes in and some thing goes wrong and there is a lawsuit, the plaintiff will name every one that they possibly can. If there has been the opportunity for public comment and a hearing, only if requested, if that one of the

parties in the action was his client, he would immediately go to that public comment period to find out if anybody had complained about that before, and if they haven't, that would give him one of the best defenses to say, you are out of line, you had your opportunity, you said nothing, you should have said something, but you waived your right to say something. He also stated that the net impact on the general fund is zero, that is what the fiscal note says. The third this he pointed out was that we pride ourselves on open government and open hearings and open comments, et cetera, this bill is in keeping with that. The results of this thing just go to the DEQ and they will do with it what they want. If the CAFO is proper under the general permit, then they don't have a legal basis for not doing that, but if something that comes up that they had missed then the DEQ has the opportunity to fix it. If they are able to fix problems before rather than after, after the fact is always more expensive. He asked the committee to remember that the hearing is only if requested.

REPRESENTATIVE RICK DALE referred to a letter from the Humane Society that was passed out during the hearing. This letter causes him alarm because, even though they reference water, air and noise pollution, it strikes him as reminiscent of a group that will involve itself stating noble motives with motives that are other than noble. Most of us use the products, but nobody wants one next to them. He can't say that he would either, but he believes that there is a basic freedom that we are allowing to possibly be suppressed, a freedom that someone in the ranching business that may, by economic necessity, have to diversify there operation. He believes that neighbors of these CAFOs need to be protected, but there is possibly another way.

REPRESENTATIVE HOLLY RASER said that this bill brings up property rights balanced with the right to know. Those are both valuable rights. Because of the odor, water, and noise doesn't adhere to property boundaries and does affect the neighboring property, the neighbor has a right to know what is being proposed to happen around them. The bill just says that there is a hearing if requested, so if it is someplace that has lots of people around that might be closely affect, they will probably request a hearing, and maybe the problems can be ironed out in just the hearing process. She however was unclear, on the fiscal note, if this bill would be only for new operations or also renewals.

REP. ADAMS asked what **REP. RASER's** motive would be for wanting to know the final outcome. **REP. RASER** said it would be to possibly change things, mitigate things. If something is offensive to all the people around, the person needs to reconsider what they are doing there.

REP. JACKSON replied that in zoning there are conditional use permits and there are permitted uses. On conditional permits the county or city always has the option to do a public hearing, they usually send a notice to all the property owners in a certain area. In the county where he lives, if he makes a change in his property in the irrigations rights the DNRC will notify all the property owners, and he would guess that that opportunity still exists, except in the case where it is a permitted use. This bill may be appropriate under the conditional use siting.

REPRESENTATIVE MERLIN WOLERY said that he thought what the proponents really wanted was a CAFO siting act and he may support one of them sometime. He doesn't believe that this bill addresses that. The DEQ really only issues permits on water, not things like odor. The bill doesn't fit what is wanted. He is going to oppose the bill.

REPRESENTATIVE LARRY LEHMAN agreed with **REP. WOLERY**. This bill just says that you have to publish a notice that you are going to have a hearing. There are no teeth in it, nothing occurs after the hearing unless it is related to water. He thinks that we are talking about a location type of bill rather than a public notice type of bill.

Motion/Vote: **REP. ADAMS** moved that **HB 335 BE TABLED**. Motion carried 12-5 with Bixby, Gallik, Galvin-Halcro, Keane, and Raser voting no.

EXECUTIVE ACTION ON HB 368

Motion: **REP. JACKSON** moved that **HB 368 DO PASS**.

Discussion:

REPRESENTATIVE HOLLY RASER stated that she thought this is a good bill for encouraging research in agriculture.

REPRESENTATIVE GILDA CLANCY also think this is a good bill. She pointed out that there were several proponents and no opponents.

REPRESENTATIVE MERLIN WOLERY asked if there were amendments to the bill. **Krista Lee Evans** replied that there was a proponent had offered amendments, but in order for an amendment to be heard someone from the committee has to move it. It had been said that the amendment was only clean up and not substantive, however, it was a substantive amendment. It removes production agriculture from the grants, allowed grants to be given to anybody, where the current bill is only for production agriculture. With that, no one from the committee would sponsor the amendment.

REPRESENTATIVE DARREL ADAMS stated that it looks like a good bill and that he was in favor of it.

Motion/Vote: REP. JACKSON moved that **HB 368 DO PASS. Motion carried unanimously.**

ADJOURNMENT

Adjournment: 3:45 P.M.

REP. DONALD L. HEDGES, Chairman

ROBYN LUND, Secretary

DH/RL

EXHIBIT (agh26aad)